



March 25, 2005

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## ENGROSSED SENATE BILL No. 230

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DIGEST OF SB 230 (Updated March 23, 2005 4:47 pm - DI 69)

**Citations Affected:** IC 5-2; IC 11-8.

**Synopsis:** Sex offender directory and victim notification. Adds registered neighborhood associations to the list of entities that must periodically receive the sex and violent offender directory published by the criminal justice institute. Allows the department of correction to establish an automated victim notification system. Allows a crime victim to register for the system by telephone. Provides that a system must notify a registered crime victim by telephone when: (1) a committed offender's status changes; (2) the offender is released or has escaped; or (3) the status of certain court cases changes. Allows a crime victim to obtain the most recent status of an offender by calling the system. Allows money in the victim and witness assistance fund to be used to establish and maintain a victim notification system. Provides that there is no cause of action based on a system's failure to notify. Requires a sheriff or the police chief of Indianapolis to notify the department when a sex offender files a new sex offender registration form if the department has established an automated victim notification system.

**Effective:** July 1, 2005.

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**Lubbers, Drozda, Young R Michael,  
Lanane, Waterman**

(HOUSE SPONSORS — BECKER, VAN HAAFTEN)

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January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 19, 2005, amended, reported favorably — Do Pass.

January 24, 2005, read second time, ordered engrossed. Engrossed.

January 25, 2005, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Courts and Criminal Code.

March 24, 2005, amended, reported — Do Pass.

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ES 230—LS 6948/DI 69+



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March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 230

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal justice.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-2-6-3.5, AS AMENDED BY HEA 1288-2005,  
2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2005]: Sec. 3.5. (a) The sex and violent offender directory  
4 established under section 3 of this chapter must include the names of  
5 each offender who is or has been required to register under IC 5-2-12.  
6 (b) The institute shall do the following:  
7 (1) Update the directory at least one (1) time every six (6) months.  
8 (2) Publish the directory on the Internet through the computer  
9 gateway administered by the intelnet commission under  
10 IC 5-21-2 and known as accessIndiana.  
11 (3) Make the directory available on a computer disk and, at least  
12 one (1) time every six (6) months, send a copy of the computer  
13 disk to the following:  
14 (A) All school corporations (as defined in IC 20-18-2-16).  
15 (B) All nonpublic schools (as defined in IC 20-18-2-12).  
16 (C) All state agencies that license individuals who work with  
17 children.

ES 230—LS 6948/DI 69+



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(D) The state personnel department to screen individuals who may be hired to work with children.

(E) All child care facilities licensed by or registered in the state.

**(F) A neighborhood association that:**

**(i) registers with the institute;**

**(ii) includes a description of the geographic boundaries of the neighborhood association with its registration;**

**(iii) requests a copy of the directory; and**

**(iv) submits the name and address of a neighborhood association contact person to the institute at least one (1) time each year.**

~~(F)~~ **(G) Other entities that:**

**(i) provide services to children; and**

**(ii) request the directory.**

(4) Maintain a hyperlink on the institute's computer web site that permits users to connect to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5.

(5) Make a paper copy of the directory available upon request.

(c) A copy of the directory:

(1) provided to a child care facility under subsection (b)(3)(E);

(2) provided to another entity that provides services to children under subsection (b)(3)(F); or

(3) that is published on the Internet under subsection (b)(2);

must include the home address of an offender whose name appears in the directory.

(d) When the institute publishes on the Internet or distributes a copy of the directory under subsection (b), the institute shall include a notice using the following or similar language:

"Based on information submitted to the criminal justice institute, a person whose name appears in this directory has been convicted of a sex offense or a violent offense or has been adjudicated a delinquent child for an act that would be a sex offense or violent offense if committed by an adult."

SECTION 2. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

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(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

- (1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

- (1) pay the costs of administering the fund, including expenditures for personnel and data;
- (2) establish and maintain the sex and violent offender directory under IC 5-2-12; ~~and~~
- (3) provide training for persons to assist victims; **and**
- (4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.**

SECTION 3. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

- (A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.
- (B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period of time:

- (A) exceeding fourteen (14) consecutive days; or
- (B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose

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of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city. If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county. However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(f) An offender shall complete a registration form. Each sheriff or police chief of a consolidated city shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);

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- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff or the police chief of a consolidated city, the sheriff or police chief shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.

(j) When an offender completes a new registration form, the sheriff or police chief of a consolidated city shall:

- (1) forward a copy of the new registration form to the:

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(A) institute; and

(B) department of correction if the department has established an automated victim notification system under IC 11-8-7; and

(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 4. IC 11-8-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 7. Victim Notification Services**

**Sec. 1. As used in the chapter, "registered crime victim" refers to a crime victim who registers to receive victim notification services under section 2(a)(4) of this chapter if the department establishes an automated victim notification system under this chapter.**

**Sec. 2. (a) The department may establish an automated victim notification system that must do the following:**

**(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:**

**(A) is assigned to a:**

**(i) department facility; or**

**(ii) county jail or any other facility not operated by the department;**

**(B) is transferred to a:**

**(i) department facility; or**

**(ii) county jail or any other facility not operated by the department;**

**(C) is given a different security classification;**

**(D) is released on temporary leave;**

**(E) is discharged; or**

**(F) has escaped.**

**(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.**

**(3) Notify a registered crime victim concerning a change in the status of:**

**(A) a criminal appeal;**

**(B) a writ of habeas corpus proceeding;**

**(C) an appeal from the granting of a petition for postconviction relief; or**

**(D) a postconviction proceeding in a capital case;**

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concerning the committed offender who committed the crime against the registered crime victim.

(4) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.

(b) For purposes of subsection (a), if the department establishes an automated victim notification system, a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:

(1) is transferred to another county jail or another facility not operated by the department of correction;

(2) is released on temporary leave;

(3) is discharged; or

(4) has escaped.

Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.

(c) An automated victim notification system may transmit information to a person by:

(1) telephone;

(2) electronic mail; or

(3) another method as determined by the department.

Sec. 3. (a) The department must ensure that the offender information contained in an automated victim notification system is updated frequently enough to timely notify a registered crime victim that an offender has:

(1) been released;

(2) been discharged; or

(3) escaped.

(b) The failure of an automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against:

(1) the state; or

(2) the department.

Sec. 4. If the department establishes an automated victim notification system under this chapter, the department, in cooperation with the Indiana criminal justice institute:

(1) may use money in the victim and witness assistance fund under IC 5-2-6-14(e); and

(2) shall seek:

(A) federal grants; and

(B) other funding.

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1        **Sec. 5. The department may adopt rules under IC 4-22-2 to**  
2        **implement this chapter.**

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SENATE MOTION

Madam President: I move that Senator Drozda be added as coauthor of Senate Bill 230.

LUBBERS

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SENATE MOTION

Madam President: I move that Senators Young R Michael and Lanane be added as coauthors of Senate Bill 230.

LUBBERS

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 230, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 8, delete "and".

Page 2, line 9, delete "." and insert "; and

**(iv) submits the name and address of a neighborhood association contact person to the institute at least one (1) time each year."**

and when so amended that said bill do pass.

(Reference is to SB 230 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 230.

LUBBERS

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal justice.

Page 1, line 1, after "IC 5-2-6-3.5" insert ", AS AMENDED BY HEA 1288-2005, SECTION 72,".

Page 1, line 14, delete "IC 20-1-6-1)." and insert "IC 20-18-2-16).".

Page 1, line 15, delete "IC 20-10.1-1-3)." and insert "IC 20-18-2-12).".

Page 2, after line 34, begin a new paragraph and insert:

"SECTION 2. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

- (1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

- (1) pay the costs of administering the fund, including expenditures for personnel and data;
- (2) establish and maintain the sex and violent offender directory

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under IC 5-2-12; ~~and~~

(3) provide training for persons to assist victims; **and**

**(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.**

SECTION 3. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full time or part time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city. If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register

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with the sheriff of each county. However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(f) An offender shall complete a registration form. Each sheriff or police chief of a consolidated city shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);

whichever occurs first.

(h) Whenever an offender registers with a sheriff or the police chief of a consolidated city, the sheriff or police chief shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and

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transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.

(j) When an offender completes a new registration form, the sheriff or police chief of a consolidated city shall:

(1) forward a copy of the new registration form to the:

(A) institute; and

(B) **department of correction if the department has established an automated victim notification system under IC 11-8-7; and**

(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 4. IC 11-8-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

#### **Chapter 7. Victim Notification Services**

**Sec. 1. As used in the chapter, "registered crime victim" refers to a crime victim who registers to receive victim notification services under section 2(a)(4) of this chapter if the department establishes an automated victim notification system under this chapter.**

**Sec. 2. (a) The department may establish an automated victim notification system that must do the following:**

(1) **Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:**

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- (A) is assigned to a:
    - (i) department facility; or
    - (ii) county jail or any other facility not operated by the department;
  - (B) is transferred to a:
    - (i) department facility; or
    - (ii) county jail or any other facility not operated by the department;
  - (C) is given a different security classification;
  - (D) is released on temporary leave;
  - (E) is discharged; or
  - (F) has escaped.
- (2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.
- (3) Notify a registered crime victim concerning a change in the status of:
- (A) a criminal appeal;
  - (B) a writ of habeas corpus proceeding;
  - (C) an appeal from the granting of a petition for postconviction relief; or
  - (D) a postconviction proceeding in a capital case; concerning the committed offender who committed the crime against the registered crime victim.
- (4) Allow a crime victim to register or update the victim's registration for the automated victim notification system by calling a toll free telephone number.
- (b) For purposes of subsection (a), if the department establishes an automated victim notification system, a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:
- (1) is transferred to another county jail or another facility not operated by the department of correction;
  - (2) is released on temporary leave;
  - (3) is discharged; or
  - (4) has escaped.
- Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.
- (c) An automated victim notification system may transmit information to a person by:
- (1) telephone;

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- (2) electronic mail; or
- (3) another method as determined by the department.

**Sec. 3. (a) The department must ensure that the offender information contained in an automated victim notification system is updated frequently enough to timely notify a registered crime victim that an offender has:**

- (1) been released;
- (2) been discharged; or
- (3) escaped.

**(b) The failure of an automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against:**

- (1) the state; or
- (2) the department.

**Sec. 4. If the department establishes an automated victim notification system under this chapter, the department, in cooperation with the Indiana criminal justice institute:**

- (1) may use money in the victim and witness assistance fund under IC 5-2-6-14(e); and
- (2) shall seek:
  - (A) federal grants; and
  - (B) other funding.

**Sec. 5. The department may adopt rules under IC 4-22-2 to implement this chapter."**

and when so amended that said bill do pass.

(Reference is to SB 230 as printed January 20, 2005.)

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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